



## 1995 SENATE BILL 69

February 14, 1995 - Introduced by Senators ROSENZWEIG, DARLING, BUETTNER and FITZGERALD, cosponsored by Representatives LADWIG, KRUSICK, DUFF, KLUSMAN, ZIEGELBAUER, DOBYNS, HAHN, SILBAUGH, GOETSCH, HASENOHRL, LAZICH, KREIBICH, OWENS, UNDERHEIM and OURADA. Referred to Committee on Judiciary.

1     **AN ACT to repeal** 48.415 (1) (c); and **to amend** 48.415 (1) (a) (intro.), 48.415 (1)  
2           (a) 1., 48.415 (1) (a) 2., 48.415 (1) (a) 3., 48.415 (2) (intro.), 48.415 (3) (intro.),  
3           48.415 (4) (intro.), 48.415 (5) (intro.), 48.415 (6) (a) (intro.), 48.415 (7) and  
4           48.415 (8) of the statutes; **relating to:** the burden of proving abandonment as  
5           a ground for termination of parental rights.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, abandonment is a ground for involuntary termination of parental rights (TPR). Currently, abandonment may be established by a showing of any of the following:

1. That the child has been left without provision for its care or support and for 60 days the petitioner has been unable to find either parent.
2. That the child has been placed outside of the parent's home by an order of the court assigned to exercise jurisdiction under the children's code (juvenile court) and the parent has failed to visit or communicate with the child for 6 months or longer.
3. That the child has been left by the parent with another person, the parent knows or could discover the whereabouts of the child and the parent has failed to visit or communicate with the child for one year or longer.

Currently, a showing of abandonment may be rebutted by other evidence that the parent has not disassociated himself or herself from the child or relinquished responsibility for the child's care and well-being. This bill eliminates the parent's burden of rebutting the presumption of abandonment and provides instead that, in addition to the current showing, the petitioner must also show that the parent has relinquished responsibility for the child's care and well-being.

Under current law, the various grounds for involuntary TPR may be established by a showing of the elements provided for those grounds. This bill

provides that the various grounds are established by a showing of the elements provided for those grounds.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.415 (1) (a) (intro.) of the statutes is amended to read:

2           48.415 (1) (a) (intro.) Abandonment ~~may be~~ is established by a showing that  
3 of any of the following:

4           **SECTION 2.** 48.415 (1) (a) 1. of the statutes is amended to read:

5           48.415 (1) (a) 1. ~~The~~ That the child has been left without provision for its care  
6 or support, the petitioner has investigated the circumstances surrounding the  
7 matter and for 60 days ~~the petitioner~~ has been unable to find either parent; and the  
8 parent has relinquished responsibility for the child's care and well-being.

9           **SECTION 3.** 48.415 (1) (a) 2. of the statutes is amended to read:

10          48.415 (1) (a) 2. ~~The~~ That the child has been placed, or continued in a  
11 placement, outside the parent's home by a court order containing the notice required  
12 by s. 48.356 (2) ~~and,~~ the parent has failed to visit or communicate with the child for  
13 a period of 6 months or longer; ~~or~~ and the parent has relinquished responsibility for  
14 the child's care and well-being.

15          **SECTION 4.** 48.415 (1) (a) 3. of the statutes is amended to read:

16          48.415 (1) (a) 3. ~~The~~ That the child has been left by the parent with a relative  
17 or other person, the parent knows or could discover the whereabouts of the child ~~and,~~  
18 the parent has failed to visit or communicate with the child for a period of one year  
19 or longer and the parent has relinquished responsibility for the child's care and  
20 well-being.

1           **SECTION 5.** 48.415 (1) (c) of the statutes is repealed.

2           **SECTION 6.** 48.415 (2) (intro.) of the statutes is amended to read:

3           48.415 **(2)** CONTINUING NEED OF PROTECTION OR SERVICES. (intro.) Continuing  
4 need of protection or services ~~may be~~ is established by a showing of all of the  
5 following:

6           **SECTION 7.** 48.415 (3) (intro.) of the statutes is amended to read:

7           48.415 **(3)** CONTINUING PARENTAL DISABILITY. (intro.) Continuing parental  
8 disability ~~may be~~ is established by a showing that:

9           **SECTION 8.** 48.415 (4) (intro.) of the statutes is amended to read:

10           48.415 **(4)** CONTINUING DENIAL OF PERIODS OF PHYSICAL PLACEMENT. (intro.)  
11 Continuing denial of periods of physical placement ~~may be~~ is established by a  
12 showing that:

13           **SECTION 9.** 48.415 (5) (intro.) of the statutes is amended to read:

14           48.415 **(5)** CHILD ABUSE. (intro.) Child abuse ~~may be~~ is established by a  
15 showing that the parent has exhibited a pattern of abusive behavior which is a  
16 substantial threat to the health of the child who is the subject of the petition and a  
17 showing of either of the following:

18           **SECTION 10.** 48.415 (6) (a) (intro.) of the statutes is amended to read:

19           48.415 **(6)** (a) (intro.) Failure to assume parental responsibility ~~may be~~ is  
20 established by a showing that a child is a nonmarital child who has not been adopted  
21 or whose parents have not subsequently intermarried under s. 767.60, that paternity  
22 was not adjudicated prior to the filing of the petition for termination of parental  
23 rights and:

24           **SECTION 11.** 48.415 (7) of the statutes is amended to read:

